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Docket Management Facility  
U.S. Department of Transportation  
Room PL-401  
400 Seventh Street, S.W.  
Washington, D.C. 20590-0001

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DEPT OF TRANSPORTATION  
DOCKETS

2003 JUN 30 P 12:02

Re: Marine Casualties and Investigations;  
Chemical Testing Following Serious Marine  
Incidents (USCG-2001-8773) - 50

Dear Sir or Madam:

The American Waterways Operators (AWO) is the national trade association representing the inland and coastal tugboat, towboat and barge industry. AWO members own and operate more than 75 percent of the U.S.-flag fleet of towing vessels and barges, all of which will be affected by the Coast Guard's notice of proposed rulemaking (NPRM) on new alcohol testing procedures for commercial vessels following a serious marine incident (SMI). We appreciate this opportunity to provide comments on the NPRM.

The 1998 Coast Guard Authorization Act charged the Coast Guard with developing regulations to ensure that alcohol testing of all crewmembers in safety sensitive positions is conducted within two hours of a "serious marine casualty." AWO members are committed to leadership in marine safety and environmental protection and share the Coast Guard's objective of a drug- and alcohol-free transportation workplace. However, we are concerned about the practical difficulties that the proposed regulations may present for marine employers and the integrity of a testing process conducted largely by vessel crewmembers. We encourage the Coast Guard to consider alternative approaches to alleviate these concerns.

First, AWO urges the Coast Guard to **permit alternatives to carrying alcohol testing equipment aboard vessels**. While we recognize that the two-hour testing window is a statutory requirement, we do not believe that requiring crewmembers to conduct alcohol testing on each other using on-board equipment is the optimal approach to ensure testing accuracy and integrity. Many vessels, such as harbor tugs, fleet boats, and some inland towing vessels, operate in close proximity to land-based resources. Vessel owners should have the option of relying on land-based testing equipment if such equipment can be made available within the two-hour testing window. Many vessel owners will prefer to rely on land-based testing professionals or shoreside company managers to conduct required alcohol tests where geography permits. For some vessel

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owners, this approach may also be more cost-effective than carrying and storing testing kits on all company vessels and training crewmembers to administer alcohol tests. For all of these reasons, we urge the Coast Guard would permit alternatives to on-board testing equipment administered by vessel personnel.

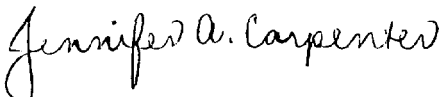
Second, AWO urges the Coast Guard to clarify the standard to which alcohol testing must be conducted. The NPRM seems to require that crewmembers be tested for the presence of alcohol in their breath or saliva. (Proposed 46 CFR 4.06-15(a) requires the employer to have testing devices "capable of determining the presence of alcohol in an individual's system.") However, 33 CFR 95.020(b) establishes a 0.04 percent blood alcohol maximum for operators of commercial vessels. While AWO supports zero-tolerance drug and alcohol policies as a matter of company practice, the NPRM seems to be establishing a new threshold (the presence of alcohol in the blood) alongside the existing regulatory standard. The Coast Guard should clarify that the existing regulatory standard – 0.04 blood alcohol by weight – continues to apply and should permit the use of testing devices designed to test to the 0.04 percent threshold.

Third, AWO urges the Coast Guard to recognize that situations may arise where it is not possible to determine within two hours whether the definition of "serious marine incident" will be triggered. The definition of SMI in 46 CFR 4.03-2 includes personal injuries that require medical treatment beyond first aid and render an individual unfit to perform his or her duties on the vessel. While it is common practice to refer individuals for medical examination following even minor injuries, it is difficult to know at the outset whether a medical professional will conclude that the crewmember is unfit for duty. In such situations, the two-hour testing window may well have expired. Vessel owners should not be penalized for this.

Finally, AWO encourages the Coast Guard to consider seeking a legislative change that would permit alcohol testing to be conducted within eight hours of a serious marine incident. The statute currently requires that testing be conducted within two hours, except where a delay is necessitated by safety concerns. In such cases, testing must be conducted within eight hours. If an eight-hour window is sufficient to yield satisfactory testing results, we urge the Coast Guard to seek legislative authority to require testing within eight hours, not two. Establishing an eight-hour window would enable most vessel owners to rely on shoreside professionals or company managers to conduct the required testing. This would enhance the integrity of the testing process and alleviate the concerns expressed above.

Thank you for the opportunity to comment. We would be pleased to answer any questions or provide additional information as the Coast Guard sees fit.

Sincerely,



Jennifer A. Carpenter